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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.653 OF 2005
IN
SUMMARY SUIT NO.6621 OF 1999

M/s.Peerless Financial Services Ltd.).. Plaintiffs

Versus

M/s.Parasrampuria Industries Ltd.).. Defendants

Ms.Maria Reuben i/b.Ashwin Ankhad & Associates for the Plaintiffs.

Mr.D.S. Dubey i/b.P.V.Nelson Rajan for the Defendants.

CORAM : SMT. NISHITA MHATRE, J.

DATED : 20TH MARCH 2006

P.C.:

. On 29th March 1996, the Plaintiffs agreed to discount eleven invoices drawn by M/s.Parasrampuria Synthetics Ltd. in favour of the Defendants in respect of goods sold and delivered. These invoices aggregated to Rs.74,84,400/-. The Plaintiffs agreed to make payment of Rs.69,86,123.51. Cheques as well as a demand draft were issued in favour of M/s.Parasrampuria Synthetics Ltd. Against the amounts advanced by the Plaintiffs, M/s.Parasrampuria Synthetics Ltd. drew a Hundi in favour of the Plaintiffs requiring the Defendants to pay the amounts after 91 days. The Demand Promissory Note was also executed by the Defendants. Ultimately, it appears that between 5th December 1996 to 2nd July 1997, the Defendants made part payment out of

the total amount payable to the Plaintiffs. Defendants paid Rs.10,69,990/- which was adjusted towards over-due interest by the Plaintiffs. Repeated reminders sent by the Plaintiffs to the Defendants to repay the entire amount only led to the Defendants making promises to pay the amounts.

2. The learned Advocate for the Plaintiffs points out that these amounts were paid during the year 1996. Thereafter, the Defendants did not pay any amount to the Plaintiffs. The Suit came to be filed in the year 1999. Summons for Judgment was taken out by the Plaintiffs thereafter. However, in view of the statement made by the Defendants that it was declared a sick undertaking under Section 22 of the Sick Industrial Companies Act, 1985, Summons for Judgment was withdrawn on 21st September 2005 with liberty to take out a fresh Summons for Judgment after the proceedings before the BIFR came to an end.

3. The Defendants were directed on the last occasion to file an affidavit within one week placing on record the current status of the matter before the BIFR.

4. The Plaintiffs had annexed copies of the orders of the BIFR rejecting the Reference as well as the AAIFR confirming the order of BIFR. The affidavit was directed to be filed in view of the statement made on behalf of the Defendants that the BIFR had again

entertained its application. However, no such affidavit has been filed by the Defendants.

5. In my view, the Plaintiffs have made out a good case for refusing leave to the Defendants to defend the Suit. However, with a view to allow the Defendants an opportunity to make payment of the amounts claimed, Defendants shall deposit an amount of Rupees One crore in this Court within four weeks from today failing which the Plaintiffs will be entitled to a decree.

6. If the Defendants deposit the amount as aforesaid, the Prothonotary & Senior Master to invest the same in a fixed deposit of a Nationalised Bank initially for three years to be renewed thereafter till the pendency of the Suit. The Suit then be transferred to the list of Commercial Causes.

7. Written Statement to be filed within eight weeks. Discovery and inspection to be taken eight weeks thereafter.